

ESTTA Tracking number: **ESTTA422012**Filing date: **07/27/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cosmedical Technologies, Inc.
Granted to Date of previous extension	07/27/2011
Address	3961 SW 47th Avenue Davie, FL 33314 UNITED STATES

Attorney information	Robert M. Schwartz Robert M. Schwartz, P.A. PO Box 221470 Hollywood, FL 33022 UNITED STATES litigation@patentmiami.com Phone:9549240707
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Applicant Information

Application No	77810902	Publication date	03/29/2011
Opposition Filing Date	07/27/2011	Opposition Period Ends	07/27/2011
Applicants	Novick, Nelson Lee 328 East 75th St. New York, NY 100213317 UNITED STATES Novick, Jonathan 328 East 75th St. New York, NY 100213317 UNITED STATES		

Goods/Services Affected by Opposition

Class 044.


All goods and services in the class are opposed, namely: cosmetic dermatology services featuring aesthetic and spa treatments for the skin, non-surgical non-invasive cosmetic skin care and skin rejuvenation services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration	3301694	Application Date	02/09/2005
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No.			
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	COSMEDICAL TECHNOLOGIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1993/07/06 First Use In Commerce: 1993/07/06 Cosmetics, namely non-medicated skin care preparations Class 005. First use: First Use: 1993/07/06 First Use In Commerce: 1993/07/06 Medicated skin care preparations		

Attachments	78563805#TMSN.jpeg (1 page)(bytes) Opposition 072711.pdf (8 pages)(66987 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/robert m schwartz/
Name	Robert M. Schwartz
Date	07/27/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 77/810,902
Publication in the *Official Gazette* of March 29, 2011
For: RX COSMEDISPA WHERE AESTHETICS AND SCIENCE MEET

Cosmedical Technologies, Inc., : Opposition No. _____
Opposer, :
vs. :
Nelson Lee Novick and Jonathan :
Novick, d/b/a Cosmedispa :
Applicant. :
_____ :

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Cosmedical Technologies, Inc., a Florida corporation, having its principal place of business at 3961 SW 47th Avenue, Davie, Florida 33314, believes that it will be damaged by the registration of the mark RX COSMEDISPA WHERE AESTHETICS AND SCIENCE MEET shown in Application Serial No. 77/810,902 and hereby opposes same.

As grounds for its Opposition, Opposer, by and through its counsel, alleges as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 3,301,694, issued October 2, 2007, for the mark COSMEDICAL TECHNOLOGIES, for "cosmetics, namely non-medicated skin care preparations", in International Class 3, and for "medicated skin care preparations", in International Class 5, and has used its mark continuously in connection with these goods since at least as early as July 6, 1993 ("Opposer's Mark"). See attached Exhibit A.

2. Since long prior to the filing date of Applicant's intent-to-use application, Opposer's Mark has been and continues to be extensively used, advertised and promoted in interstate commerce throughout the United States to identify Opposer's goods. Opposer's Mark, COSMEDICAL TECHNOLOGIES, is a symbol of considerable good will and recognition built up by Opposer through substantial amounts of time and effort, and has become well-known to customers and potential customers as a trademark of Opposer, and as an origin and source of the goods sold and provided by Opposer.

3. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark RX COSMEDISPA WHERE AESTHETICS AND SCIENCE MEET for various services related to cosmetics and skin care, including "cosmetic dermatology services featuring

aesthetic and spa treatments for the skin, non-surgical non-invasive cosmetic skin care and skin rejuvenation services" in International Class 44 ("Applicant's Mark"). See attached Exhibit B.

4. In view of the similarities between Opposer's Mark and Applicant's Mark, and the related nature of the goods and/or services of the respective parties, Applicant's Mark so resembles Opposer's Mark as to be likely to cause confusion, or to cause mistake, or to deceive, to the irreparable damage of Opposer.

5. Applicant's registration and use of RX COSMEDISPA WHERE AESTHETICS AND SCIENCE MEET also will dilute the distinctive quality of Opposer's registered trademark COSMEDICAL TECHNOLOGIES, which became famous before the filing date of Applicant's intent-to-use application, thereby lessening the ability of Opposer's famous mark to distinguish Opposer's goods and services and causing damage to Opposer.

WHEREFORE, Opposer, by and through its counsel, respectfully requests, for the forgoing reasons, that this Opposition be sustained and that the registration sought by Applicant in Serial No. 77/810,902 be denied.

Please recognize Robert M. Schwartz and Gail L. Fix, both members of the Bar of the State of Florida, and the Firm of

Robert M. Schwartz, P.A., 2445 Hollywood Boulevard, Hollywood,
FL 33020, as attorneys for Opposer, Cosmedical Technologies,
Inc.

Dated: July 27, 2011

Respectfully submitted,

ROBERT M. SCHWARTZ, P.A.

BY: 

Robert M. Schwartz, Esq.

Gail L. Fix, Esq.

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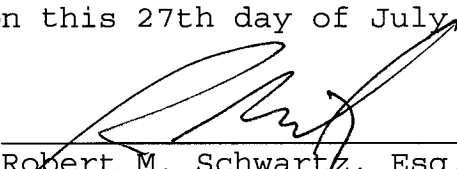
robert@patentmiami.com

Attorney for Opposer,

Cosmedical Technologies, Inc.

Certificate of Service

I hereby certify that a copy of the foregoing was served by first class mail on the applicants, Nelson Lee Novick and Jonathan Novick, d/b/a CosMediSpa, c/o Yoni, 500 East 85th St., Suite P-1, New York NY 10028 on this 27th day of July, 2011.



Robert M. Schwartz, Esq.

Exhibit A

Int. Cls.: 3 and 5

Prior U.S. Cls.: 1, 4, 6, 18, 44, 46, 50, 51 and 52

Reg. No. 3,301,694

United States Patent and Trademark Office

Registered Oct. 2, 2007

**TRADEMARK
PRINCIPAL REGISTER**

**COSMEDICAL
TECHNOLOGIES**

COSMEDICAL TECHNOLOGIES, INC. (FLORIDA
CORPORATION)
4700 SW 51ST STREET SUITE 212
DAVIE, FL 33314

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: COSMETICS, NAMELY NON-MEDICATED
SKIN CARE PREPARATIONS, IN CLASS 3 (U.S. CLS.
1, 4, 6, 50, 51 AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "TECHNOLOGIES", APART FROM
THE MARK AS SHOWN.

FIRST USE 7-6-1993; IN COMMERCE 7-6-1993.

FOR: MEDICATED SKIN CARE PREPARATIONS,
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

SER. NO. 78-563,805, FILED 2-9-2005.

FIRST USE 7-6-1993; IN COMMERCE 7-6-1993.

ANNE E. GUSTASON, EXAMINING ATTORNEY

Exhibit B



United States Patent and Trademark Office

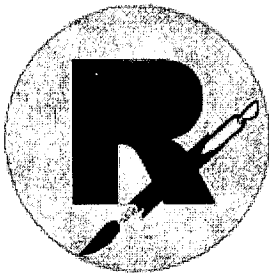
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CosMediSpa

Where Aesthetics and Science Meet

Word Mark RX COSMEDISPA WHERE AESTHETICS AND SCIENCE MEET

Goods and Services IC 044. US 100 101. G & S: cosmetic dermatology services featuring aesthetic and spa treatments for the skin, non-surgical non-invasive cosmetic skin care and skin rejuvenation services

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 10.07.25 - Bed pans; Blood pressure apparatus; Braces (neck, back, teeth, leg, etc.); Caps, surgical; Clamps, medical; Eye droppers; Face Masks, surgical; Gloves, surgical; Hearing aids; Heating pads; Hot water bottles; Inhalers (medical); Intravenous devices; Masks, surgical; Mirrors, dental; Pans, bed; Scrubs (surgical); Surgical caps; Surgical gowns; X-ray apparatus
 20.01.02 - Brushes, artist; Brushes, paint; Paint brushes
 24.09.05 - American flags; Flags, American
 24.17.17 - Prescription symbol (Rx)
 26.01.21 - Circles that are totally or partially shaded.
 27.03.05 - Objects forming letters or numerals

Serial Number 77810902

Filing Date August 24, 2009

Current Filing Basis 1B

Original Filing Basis 1A;44D

Published for Opposition March 29, 2011

Owner (APPLICANT) Novick, Jonathan DBA CosMediSpa INDIVIDUAL UNITED STATES 328 East 75th St. New York NEW YORK 100213317

(APPLICANT) Novick, Nelson Lee DBA CosMediSpa INDIVIDUAL UNITED STATES 328 East 75th St. New York NEW YORK 100213317

Description of Mark The color(s) blue, black, brown and silver is/are claimed as a feature of the mark. The mark consists of the "Rx" symbol against a blue circle. The "R" is in black, and the "x" is drawn with an artist's brush and a surgeon's knife shown in the colors blue, silver and brown. The wording, "CosMediSpa", appears in black above the slogan "WHERE AESTHETICS AND SCIENCE MEET" appearing in silver.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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